**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.5027 OF 2003**

Employees State Insurance Corpn. ...Applicant

Vs.

Shri Mahindrasingh Bhatia & Ors. ...Respondents

Shri H.V.Mehta for the Applicant.
Shri Jaydeo Trivedi for the Respondent No.1.
Shri U.V.Nikam, A.P.P. for the State.

**CORAM : A. S. OKA, J.**
**DATE : SEPTEMBER 20, 2006.**

**P.C.:**

1. Heard Shri Mehta for the Applicant. The offence alleged was under section 85(g) of the Employees' State Insurance Act, 1948. The learned Trial Judge has dimissed the complaint on the ground that it was barred by limitation. The contravention alleged by the Applicant was that inspection of books of accounts, ledgers, cash books, vouchers for the period from April 1981 to March 1996 was not given. A complaint was filed in the year 1995 after obtaining sanction on 16th September, 1995. Shri Mehta pointed out averments made in paragraph No.2 stating that inspection was demanded on 16th October, 1981, 25th September, 1986, 07th October, 1988, 11th November, 1992, 09th December, 1997, 12th February, 1998 and 07th October, 1998. He submitted that the accused was under an obligation to preserve the said documents for a

period of five years and that is the reason why on 07th October, 1998 the accused was duty bound to produce record for inspection atleast from the year 1993. He submitted that to that extent the complaint was within limitation. I have considered the submissions. Allegation of the Applicant is as regards non-production of the documents for the period from April 1981 to March 1996. According to the case of the Applicant on 09th December, 1997 inspection was demanded and was not granted. It is thus obvious that the period of limitation started running from 09th December, 1997. In view of clause (b) of sub-section 2 of section 468 of the Code of Criminal Procedure, 1973, the period of limitation available was one year. Admittedly, the complaint is not filed within one year from 09th December, 1997. It is not possible to accept the submission that subsequently in the year 1998 inspection was once again demanded on two occasions and therefore, the cause of action arose in the year 1998.

2. The view taken by the learned Magistrate is a possible view which could have been taken. No case is made out for grant of leave. Application is rejected.

**JUDGE**